P. 7. 213- 92

G. R. S. IX-5]

*Previous references.* 1891 92

192 .

( L R )

File No. 1 1 [illegible]

Serial Nos.

*Later references.*

# GENERAL AND REVENUE SECRETARIAT.

*Serial Nos.* 1-57

~~Part~~ B for November 1892

SUBJECT.

Appeal of Ramsappa, Bansalor? praying that his name may be registered as the Shanbhog of Halchally and Gidekenhalli Holalkere Taluk.

To, The Deputy Commissioner, Chitaldroog &c.

No. 7392 dt. 26/30 11.92.

P.7.213.92

~~Directing him~~ Informing him that the Government do not think it expedient to remove the Respondent Venkanna from the Shanbhogi Office & long as he continues to remain in Office and on the occurrence of a vacancy, the appellant may apply for it.

countermarked

hk

WD 223—GPB—20,000—14-6-20

Second Appeal Petition No. 636
1892

Rangappa - Deft - Appellant

v

Venkanna Deft - Respt:

The Appellant, the Respt:, and his others are undivided brothers. Their father Rangappa was shanbhog of the hic village and Gilkenkatti in the Dhg: district. About March 1879 he was dismissed by the Dy: Comr: for not completing the survey accts. On 14th March 1879 the Muslim viewed a notice to Rangappa to produce a fit person for the shanbhogi within 10 days. The Respondt. Venkanna petitioned the Asstt Comr that he might be appointed in his father's place. On 17th May 1879 the Asstt. Comr recommended the appointment of the Respondt., which the Dy Comr. approved of on 22nd May 1879. In June 1879 the Shekdar reported having got Rangappa to enter into charge of the

Respt.

Hearing
2nd October 92.

Date of the Decree appealed from 5/8/92

In suit No. 29
appellant sued the
respondent (Deft.)
for the Shambhoji on
the ground of his being
the Chief Trustee. The
lower Court directed
that the names of all
the Hakdars for the Sham-
bhoji should be entered
in the Register but found
no reason to remove
the Deft. (Respt.) from
the office. The appellant
appealed to the Dy Court
who confirmed the decision
of the lower Court.

The appellant now
prefers this 2d. appeal
to this Court against
the decision of the Dy
Court. The grounds are-

(1). The lower appellate
Court erred in law
in finding that there
is no Govt. order gi-
-ving the eldest brother
alone to be Shambhoji
& the finding is opposed
to Hindu law as in
the order of succession the
eldest son is the next
heir in the place of
his father.

(2). The several exhibits
filed by the appellant
were not taken notice
of.

3

(3). The Appellant was not present at the time of the enquiry made by the Mamlatdar in Re, nor was he a party when the Dy Collr. nominated the Respdt.

The main points in issue are -

1. Whether the Appellant can claim the office on the ground of his being the eldest son of his father.

2. Whether Appellant was not a consenting party to the nomination of the Respdt. in 1879.

The exhibits produced by the Appellant are -

Exh A. Extract from the Mamlatdar's Peta Register of 1879-80 of the Mordongi Taluka with reference to Appellant's Petn: dated 3rd April 1879 addressed from the Mamlatdar Vernali stating that he could not put in his appearance in connection with the Halehalli & Gilkenhalli Panchayat for one month as he was acting as a Gumasta in the Mamlatdar

Kalak. 4

Exh. B. Genealogical tree.

" C. Extract from 'Le Reporter' with reference to order, No. 153 dated 29 May 1879 from the Amtsbaas to the Sheriden requiring the latter to get the charge of the Shamboks office handed over to the Respt. Venkatta.

" D. Extract from the 'Form' Reporter of the Sheriden with reference to report No: 273 dated 25th June 1879 stating that the Respt. had been put in charge of the office.

The Deft. (Respt.) produced the following Exhibits:-

No. I. Deputation order appointing Deft. as Shamboy - Date. 22nd May 1879 No. 158. (Extract from the "Form "Reporter).

" II Respts' Petn to the Kolaleers Kalak. dated 16.5.79 praying that he might be appointed Berriawar-Dar Shamboy.

No. III. Extract from the Town Register with reference to Yadi No. 869 of 29th March 1879 from the Hosmali Taluk intimating service of notice on Appellant on Rangappa

" IV. Extract from the Jo Register with reference to Holal-kere (Hongu) Amildars Yadi No: 1086 of 29th March 1879 forwarding notice to Hosmali Taluk for service on Rangappa (Appt.)

" V. Extract from Jo Register with reference to Amildars report of the District that a notice had been issued to produce at Kadoor to the Shanbhogi.

" VI Amche Receipts 7.5.79 & 19.5.79.

" VII Extract from Jo Regr: with reference to Amildars recommendation of Appt.

being appointed Deputy.

The Court of 1st instance directed that the names of all the Pakodeen should be entered in the Register as there was not sufficient proof that the Amildar recommended the Respondt: after holding an enquiry & taking down the statement of the Appellants; that there was no reason to oust the Deft (Respt) from his appointment as he is one of the rightful claimants, as he was appointed by Govt & as the law of primogeniture is not in force here.

The Lower Appellate Court confirmed the decision of the Lower Court on the ground that the Deft Respt "has been in office since 1879, & that there is no order of Govt. entitling the eldest brother alone to be Shanbhog & so only as such".

The Plff Appellant is the eldest & the Deft Respt the 2d son of Nannappa.

23/7/92

(4)

M no 37 of 1892-93

Appellant
Rangappa
Shanbhog of
Hale-Halli
Holalkere Dalu

Respt
Venkanna

on the dismissal
of appellant's father
H. H. Respt

Her 2d son was exhumated as Shanbhog
on 22 May 1879. the petitioner was given
to the appellant on 3d April 1879 & although
he promised to attend within a month
he did not do so - but brought a suit for
the office in May 1891 - The Asst Comr
who heard the case dismissed the suit -
on the ground that there was no rule that
the appointment should be given to the
eldest son - The decision was confirmed
by the Dy Comr - The appeal is against this -

Although the appellant is entitled

8

entitled to the office
than his younger
brother, the respondent. stated
the being allowed the
respondent to hold the office
so long, the Court do
not think it expedient
to remove him
from office. But the
appellant or her son
may have the office
when it becomes vacant,
on the condition, the
decision of the Lower
Court is confirmed

1/11/92

Ord.
The Court is confirmed
that as he did not
claim the office when
it became vacant
although notice was
given to him, the
appointment of his brother
cannot be now cancelled.
He may claim the
office when a vacancy
occurs.

LR 171-91-1

Appeal within time
Call on Proceedings
IP.
3/6/92

MYSORE COURT FEE

MYSORE DEPARTMENT OF
PETITION DEPARTMENT
REGD. N 636/92
DATE 27-5-92

A.SN037
4 92-93
Co.

Printed in Town by Appellant.

Rangaswamy Rao Appellant

The Secretary to the Revenue Department

For Sqts. 2nd a special appeal No of 1892.

Nov
27/5/92 Ramappa. Plaintiff Appellant.

Veerabhadrappa and. Defendant Respondent.

The Appellant humbly begs to prefer this special appeal to the Honorable Court against the judgment & order passed by the Commissioner Civil Judge dated 8th February 1892 in Revenue Appeal No. 8 of 1891-92. for the following reasons.

1. The Lower Appellate Court erred in law in finding that there is no Government order entitling the eldest daughter to the Inam land, and the duty as such. This is opposed to the Hindu law, as the office in question being hereditary one, and in the order of succession, the daughter stands as the nearest heir in place of her father.

2. The Lower Appellate Court failed to notice the several exhibits filed by the Plaintiff in support of his contention to which have corroborating proved the Plaintiff's case.

BOARD OF REVENUE GOVERNMENT OF MYSORE

3. The said Appellate Court has summarily dismissed the appeal without hearing upon the merits at least in the case and is wrong & unjustifiable the case one heavily affecting the Revenue Laws.

4. Both the Lower Courts have not taken into consideration the valid reasons assigned by the Plaintiff for his not being present during the bargain alleged to have been made by the then Assistant Officer at the Inspection

5. The said Lower inspections order appointing the Defendant the illegal and there is nothing on the record to show that the Plaintiff was a party who had the notice of the Defendant's nomination where as Exhibit A. clearly proves that when a notice was sent to him he applied for a months time to enable him to appear & support his cause

6. Both the Lower Courts have wrongly understood the nature of the Plaintiff's case

7. Both the Lower Courts have not framed and given weight and Consideration to the exhibits filed in the Plaint

8. The judgments of the Lower Courts, are against documentary evidence and standing orders of the Government.

9. The Appellant craves leave to add, among other reasons, to say that, in reversal of the judgments of the Lower Courts with Costs, incurred by him in the Courts below; and in this honorable Court, he humbly declared as the Registrar of the Bangalore office, and attended to do the duties of the Said office.

Bangalore
27th May 1892.

13.

R.

No 43

(2)

MYSORE DEWAN'S OFFICE,

PETITION DEPARTMENT.

OFFICIAL MEMORANDUM.

R 171-91-2

Forwd the case vide 855 of 20th Aug 92

The accompanying Petition No. 636

dated 27th June 1892 received at the Dewan's Office from Rangappa, Bangalore, praying that his name may be registered as the thumbrigar of Hatchally and Gubbinahalli Hobli Kere Taluk

is forwarded, together with its four enclosures, to the Deputy Commissioner Chitaldrug District, for submission of Proceedings and a report on the facts of the case and on the points taken in the petition.

2. The petn should be returned

By Order,

Draft

Chief Secretary.

Bangalore, 13 June 1892

W N

Encl. as pred

Before the Government of *His Highness* the Maharaja of Mysore.

Appeal No. 37 of 1892-93.

| Appellant. | Vs. | Respondent. |
|---|---|---|
| Rangappa, Shanbogue of Hale Halli, Holalkere Taluk, | | Venkanna |

*Decision.* 2-11-92.

On the dismissal of Appellant's father, his 2nd son, the Respondent was appointed as Shanbogue on 22nd May 1879. Notice was given to the Appellant in ~~about April~~ March 1879 and although he promised to attend within a month, he did not do so, but brought a suit for the office in May 1891. The Assistant Commissioner who heard the case dismissed the suit, on the ground that there was no rule that the appointment should be given to the eldest son. This decision was confirmed by the

Deputy Commissioner. The appeal is against this order of Govt.

2. Although the Appellant is better entitled to the office than his younger brother, the Respondent, still, the having allowed the Respondent to hold the office so long, the Government do not think it expedient to remove him from office. But the Appellant or his son may, if duly qualified, have a preferential claim to the office when it becomes vacant. On this condition, the decision of the lower Court is confirmed.

By order

25/11/92

Draft

28/11/92

Chief Secretary

7392 26 - 11 - 92

Pet. 213-92 30

Copy to the Dy. Commr., Chittagong Divn., with the record received with his re 835/787 of 20th June 92.

By order

Chief Secretary

Petn Branch
Mark 23/6/92

Send in for precis
24/6/92

Submitted to the Council with Memo
23/6/92

LR 171-91-3

(General Serial No. 3[illegible])

3478
22 JUN. 92
P. 15
GOVERNMENT OF MYSORE

18[illegible]

From The Deputy Commissioner
Chitaldroog

(3)

To

The Chief Secretary to the ~~Durbar~~ Government of Mysore

Dated 20th
Despatched 21st } June 1892.
Received

Enclosures No. 5. with 2 files of records Sent Separately.
General No. 835.
No. 787.

His Official Memo No: 43. dated 13th Instant forwarding a petition received from Rangappa praying that his Name may be registered as the Shanbhoug of Haléballi and Gilkenakalli, Kolar: Here I beg and Requesting to submit the Proceedings in the case with a Report.

— " —

With reference to the above

A.I.
23-6-92.

above has the honour to
submit herewith original
as well as appeal Records
connected with the Case
and to state that the
English Judgments in the
Case contain the necessary
facts bearing on its
merit.

2. The Enclosures received
with the Memo under
reply are herewith returned.

I have the honour
For Deputy Commissioner
Chitaldroog Distt.

18

LR 171-91-5

AJ No. 37

MYSORE DEWAN'S OFFICE,
PETITION DEPARTMENT.

30 Nov 1892.

Respondent - Venkanna

Endorsement granted to Rangappa, Shanboque of Hale Halli, Holalkere, Taluk

in reply to his - Petition Registered No. 636 dated 27th May 1892.

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Petitioner is informed that as he did not claim the Office when it became vacant although notice was given to him, the appointment of his brother cannot be now cancelled. He may claim the Office when a vacancy occurs.

2 The enc: are returned.

27/11/92

"By Order,"

Rec'd

28/11/92
for Chief Secretary.

Mysore Govt. Central Press, Bangalore.—5-7-92—1000.

Encl - issued 30/11/92